

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

TRAMAINE E. MARTIN,

Plaintiff,

v.

SHERIFF CLIFFORD PINKNEY,

Defendant.

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CASE NO. 1:17 CV 981

JUDGE JAMES S. GWIN

ORDER

This prisoner civil rights action filed by Plaintiff *pro se* Tramaine Martin was dismissed on September 5, 2017, on the ground that Plaintiff failed to set forth a valid claim for relief. The Court further held that, even had Plaintiff set forth an otherwise valid claim, the Defendant is not liable for damages under § 1983 solely because he employs and supervises jail personnel, as *respondeat superior* is not a proper basis for such liability under 42 U.S.C. § 1983. Now before the Court is Plaintiff's Motion to Alter or Amend Judgment (ECF # 12), wherein he essentially argues he stated enough in his Complaint to set forth a valid claim for relief against the named Defendant.

A court may grant a motion to amend or alter judgment if there is a clear error of law or newly discovered evidence exists, an intervening change in controlling law occurs, or to prevent manifest injustice. *See Gencorp, Inc. v. Am. Int'l Underwriters*, 178 F.3d 804, 834 (6th Cir.1999). "It is not the function of a motion to reconsider either to renew arguments already considered and rejected by a court or 'to proffer a new legal theory or new evidence to support a prior argument when the legal theory or argument could, with due diligence, have been discovered and offered during the initial consideration of the issue.'" *McConocha v. Blue Cross*

*& Blue Shield Mut. of Ohio*, 930 F.Supp. 1182, 1184 (N.D. Ohio, 1996) (quoting *In re August, 1993 Regular Grand Jury*, 854 F.Supp. 1403, 1408 (S.D. Ind., 1994)).

The Court has reviewed Plaintiff's statements in his Motion to Alter or Amend and finds that he has not shown a clear error of law or newly discovered evidence exists, an intervening change in controlling law has occurred, or that manifest injustice would be prevented if the case was reinstated.

Accordingly, the Motion is denied.. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

Dated: December 13, 2017

s/ *James S. Gwin*  
JAMES S. GWIN  
UNITED STATES DISTRICT JUDGE